

Senate Study Bill 1169

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY
CHAIRPERSON ANGELO)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to advanced telecommunications services,
2 including modification of rate provisions, economic
3 development promotional certification, and a study of
4 competition and access charges by the utilities board.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 3219SC 80
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PAG LIN

1 1 Section 1. NEW SECTION. 15.301 TECHNOLOGY=ENABLED
1 2 COMMUNITIES.
1 3 The department is directed to work with communities in Iowa
1 4 to develop a survey and scoring system to collect information
1 5 from educational, health care, local government, and business
1 6 entities. Survey results shall be used to certify appropriate
1 7 communities as technology-enabled communities, or "TEC towns".
1 8 The TEC town designation shall be used to recognize those
1 9 communities that have achieved a high level of deployment of
1 10 advanced telecommunications services and public access to and
1 11 that have used advanced telecommunications services in
1 12 delivering government services. The TEC town certification
1 13 entitles the certified community to use any logo or other mark
1 14 of the TEC town program in the community's own marketing and
1 15 promotional efforts.
1 16 Sec. 2. Section 476.1D, subsection 1, Code 2003, is
1 17 amended to read as follows:
1 18 1. Except as provided in this section, the jurisdiction of
1 19 the board as to the regulation of communications services is
1 20 not applicable to a service or facility that is provided or is
1 21 proposed to be provided by a telephone utility that is or
1 22 becomes subject to effective competition, as determined by the
1 23 board. In determining whether a service or facility is or
1 24 becomes subject to effective competition, the board shall
1 25 consider, among other factors, whether a comparable service or
1 26 facility is available from a supplier other than the telephone
1 27 utility in the geographic market being considered by the board
1 28 and whether market forces in that market are sufficient to
1 29 assure just and reasonable rates without regulation.
1 30 Sec. 3. Section 476.6, subsection 1, Code 2003, is amended
1 31 to read as follows:
1 32 1. FILING WITH BOARD. A public utility subject to rate
1 33 regulation shall not make effective a new or changed rate,
1 34 charge, schedule or regulation until the rate, charge,
1 35 schedule, or regulation has been approved by the board, except
2 1 as provided in subsections 11 and 13.
2 2 ~~A subscriber of a telephone exchange or service, who is~~
2 3 ~~declared to be legally blind under section 422.12, subsection~~
2 4 ~~1, paragraph "c", is exempt from any charges for telephone~~
2 5 ~~directory assistance that may be approved by the board.~~
2 6 Sec. 4. Section 476.6, subsections 2 through 4, Code 2003,
2 7 are amended by striking the subsections.
2 8 Sec. 5. Section 476.51, Code 2003, is amended to read as
2 9 follows:
2 10 476.51 CIVIL PENALTY.
2 11 1. A public utility which, after written notice by the
2 12 board of a specific violation, violates the same provision of
2 13 this chapter, the same rule adopted by the board, or the same
2 14 provision of an order lawfully issued by the board, is subject
2 15 to a civil penalty, which may be levied by the board, of not
2 16 less than one hundred dollars nor more than two thousand five
2 17 hundred dollars per violation.
2 18 2. A public utility which willfully, after written notice
2 19 by the board of a specific violation, violates the same
2 20 provision of this chapter, the same rule adopted by the board,

2 21 or the same provision of an order lawfully issued by the
2 22 board, is subject to a civil penalty, which may be levied by
2 23 the board, of not less than one thousand dollars nor more than
2 24 ten thousand dollars per violation. For the purposes of this
2 25 section, "willful" means knowing and deliberate, with a
2 26 specific intent to violate.

2 27 3. Each violation is a separate offense. In the case of a
2 28 continuing violation, each day a violation continues, after
2 29 the time specified for compliance in the written notice by the
2 30 board, is a separate and distinct offense. Any civil penalty
2 31 may be compromised by the board. In determining the amount of
2 32 the penalty, or the amount agreed upon in a compromise, the
2 33 board may consider the appropriateness of the penalty in
2 34 relation to the size of the public utility, the gravity of the
2 35 violation, and the good faith of the public utility in
3 1 attempting to achieve compliance following notification of a
3 2 violation, and any other relevant factors.

3 3 4. The written notice given by the board to a public
3 4 utility under this section shall specify an appropriate time
3 5 for compliance.

3 6 5. Civil penalties collected pursuant to this section from
3 7 utilities providing water, electric, or gas service shall be
3 8 forwarded by the executive secretary of the board to the
3 9 treasurer of state to be credited to the general fund of the
3 10 state and to be used only for the low income home energy
3 11 assistance program and the weatherization assistance program
3 12 administered by the division of community action agencies of
3 13 the department of human rights. Civil penalties collected
3 14 pursuant to this section from utilities providing
3 15 telecommunications service shall be forwarded to the treasurer
3 16 of state to be credited to the general fund of the state to be
3 17 used only by the department of economic development in
3 18 furtherance of activities pursuant to section 15.301.

3 19 Penalties paid by a rate-regulated public utility pursuant to
3 20 this section shall be excluded from the utility's costs when
3 21 determining the utility's revenue requirement, and shall not
3 22 be included either directly or indirectly in the utility's
3 23 rates or charges to customers.

3 24 Sec. 6. Section 476.97, subsection 3, paragraph a,
3 25 subparagraph (5), Code 2003, is amended to read as follows:

3 26 (5) The plan shall provide for both increases and
3 27 decreases in the prices for basic communications services
3 28 reflecting annual changes in inflation ~~and productivity~~.
3 29 ~~Prior to January 1, 2000, Initially, the board shall use the~~
3 30 ~~gross domestic product price index, as published by the~~
3 31 ~~federal government, for an inflation measure, and two and six-~~
3 32 ~~tenths percentage points for a productivity measure. On or~~
3 33 ~~after January 1, 2000, the board may adopt a more~~
3 34 ~~current measures measure of inflation and productivity. Any~~
3 35 ~~plan in effect as of July 1, 2003, that contains a~~
4 1 ~~productivity factor shall strike the productivity factor on a~~
4 2 ~~prospective basis.~~

4 3 Sec. 7. Section 476.97, Code 2003, is amended by adding
4 4 the following new subsections:
4 5 NEW SUBSECTION. 12. Notwithstanding any contrary
4 6 provisions of this chapter relating to rate regulation, a
4 7 rate-regulated local exchange carrier operating under a price
4 8 regulation plan shall be allowed to rebalance basic
4 9 communications rates by implementing a rate increase of not
4 10 more than one dollar in the monthly rate for selected basic
4 11 exchange access service lines each year for three years. The
4 12 resulting increase in revenues shall be offset by an equal
4 13 decrease in revenues by simultaneously decreasing other basic
4 14 communications services rates. This rebalancing provision may
4 15 be used to rebalance rates to reduce the rate differential
4 16 between rates for comparable residential and business services
4 17 or between rates for comparable services in different service
4 18 zones as defined in the carrier's tariffs. After notice
4 19 pursuant to section 476.6, subsection 5, a carrier proposing
4 20 to rebalance rates shall file proposed tariffs with the board
4 21 containing the revised rates, along with supporting
4 22 calculations demonstrating that the proposed rebalancing is
4 23 expected to be revenue neutral. Notwithstanding contrary
4 24 provisions of this chapter, the board shall allow the tariff
4 25 provisions to become effective upon a finding by the board
4 26 that the carrier's overall revenues from basic communications
4 27 services will not be increased as a result of the rebalancing
4 28 and that the overall rebalancing is in the public interest.
4 29 Cost of service information shall not be considered in making
4 30 this determination.

4 31 NEW SUBSECTION. 13. a. The Iowa broadband initiative is

4 32 created to provide access to advanced telecommunications
4 33 services in all exchanges served by rate-regulated local
4 34 exchange carriers where advanced telecommunications services
4 35 are not already available at affordable rates, to the extent
5 1 consistent with technological limitations and the public
5 2 interest as determined by the board. The general assembly
5 3 specifically finds that regulatory flexibility is appropriate
5 4 when fostering economic development through the increased
5 5 availability of advanced telecommunications services.
5 6 b. For purposes of this section, "advanced
5 7 telecommunications service" is defined as infrastructure
5 8 capable of delivering a data transmission speed of at least
5 9 two hundred kilobits per second in each direction.
5 10 c. Any rate-regulated local exchange carrier may implement
5 11 a single increase in monthly rates for residential or business
5 12 dial tone access service lines by an amount not to exceed two
5 13 dollars per month. The increase shall be included in the
5 14 customer's bill as an unidentified part of the overall rate
5 15 for service. The revenue from this increase shall be used to
5 16 provide advanced telecommunications services in each of the
5 17 carrier's local exchange central office wire centers where
5 18 broadband services are not currently available at affordable
5 19 rates, subject to the requirements in subparagraphs (1)
5 20 through (6). In addition, any increase or decrease required
5 21 by an approved price regulation plan that, as of July 1, 2003,
5 22 has been deferred pursuant to section 476.97, subsection 3,
5 23 paragraph "a", subparagraph (6), shall not be implemented and
5 24 the amount of any deferral shall also be used to provide
5 25 advanced telecommunications services, subject to the following
5 26 requirements:

5 27 (1) Any carrier electing to participate in the Iowa
5 28 broadband initiative shall file for the board's review and
5 29 approval a plan for using the revenue resulting from the rate
5 30 increase. In reviewing the plan, the board shall consider
5 31 investments and expenditures by the carrier that will best
5 32 serve the public interest as described in this subsection,
5 33 including upgrading the existing telecommunications
5 34 infrastructure to permit improved data services, to a minimum
5 35 of fifty-six kilobits per second, for customers who cannot be
6 1 offered advanced telecommunications services because of their
6 2 geographical location. The board shall adopt rules to
6 3 implement its review process, including rules that specify the
6 4 initial plan filing requirements, further define the public
6 5 interest, and identify some of the factors the board will
6 6 consider in reviewing plans.

6 7 (2) The carrier shall use the revenue resulting from the
6 8 rate increase to implement its approved plan. Whenever the
6 9 board is of the opinion that a carrier is not complying with
6 10 its approved plan, the board may commence an action in the
6 11 district court for any county in which such violation is
6 12 alleged to have occurred to have such violation stopped and
6 13 prevented by injunction, mandamus, or other appropriate
6 14 remedy. The board may also, after notice and opportunity for
6 15 hearing, require that the carrier refund any revenue resulting
6 16 from the rate increase that has not been used to implement its
6 17 approved plan. The board may also enforce the approved plan
6 18 with civil penalties, pursuant to section 476.51.

6 19 (3) The carrier shall file annual reports with the board
6 20 detailing its progress toward completion of its approved plan.

6 21 (4) The carrier, the board, or any other interested person
6 22 may propose modifications to a carrier's plan at any time.

6 23 (5) Upon completion of its initial Iowa broadband
6 24 initiative plan, a carrier shall do one or more of the
6 25 following:

6 26 (a) File a plan for board review and approval for
6 27 continued use of the revenue resulting from the rate increase
6 28 for further deployment of advanced services.

6 29 (b) File a rate of return rate proceeding pursuant to
6 30 section 476.6 to determine new rates.

6 31 (c) File proposed tariffs for board review and approval to
6 32 reduce the monthly rates that were increased under this
6 33 subsection by an amount equal to the increase.

6 34 (6) A carrier choosing to participate in the Iowa
6 35 broadband initiative shall also apply a credit, in an amount
7 1 equal to the amount of the residential service increase, to
7 2 the monthly local exchange service rate for qualified
7 3 applicants for low-income lifeline assistance programs. This
7 4 credit shall continue for as long as the retail rate increase
7 5 is in effect.

7 6 Sec. 8. LOCAL EXCHANGE COMPETITION AND INTRASTATE ACCESS
7 7 CHARGES STUDY. The board shall conduct a study of the current

7 8 status of local exchange competition in Iowa and a separate
7 9 study of intrastate access charges and shall report the
7 10 results of the studies to the general assembly by December 15,
7 11 2003.

7 12 In conducting the competition study, the board shall
7 13 consider possible alternatives to services received from
7 14 incumbent local exchange service providers, including but not
7 15 limited to competitive local exchange service providers,
7 16 municipal telecommunications service providers, resellers of
7 17 the facilities and services of other providers, commercial
7 18 mobile radio service or other wireless providers, cable
7 19 television service providers, advanced telecommunications
7 20 service providers, and providers using voice-over internet
7 21 protocol or other similar technologies.

7 22 In conducting the studies, the board may subpoena books,
7 23 papers, records, and any other real evidence necessary or
7 24 useful for the board to complete either study. Subpoenas may
7 25 be contested using the procedures in section 17A.13,
7 26 subsection 1. Company-specific information provided to the
7 27 board solely for purposes of the report may be treated as a
7 28 trade secret for purposes of section 22.7, subsection 3.

7 29 EXPLANATION

7 30 This bill creates an Iowa broadband initiative. The bill
7 31 allows local exchange carriers operating under price
7 32 regulation plans to rebalance their residential and business
7 33 rates and to reduce rate differentials resulting from past
7 34 mergers and acquisitions. In addition, the bill clarifies the
7 35 authority of the utilities board to deregulate competitive
8 1 telecommunications services, removes outdated provisions
8 2 relating to directory assistance services, creates a
8 3 technology-enabled communities ("TEC") town program within the
8 4 department of economic development, provides that civil
8 5 penalties collected from telecommunications companies will be
8 6 used to fund the TEC town program, and requires that the
8 7 utilities board conduct studies of the current state of local
8 8 exchange competition in Iowa and intrastate access charges.

8 9 LSB 3219SC 80

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